

FEB 05 2004

DECLARATION - USA PATENT APPLICATION

Below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled Constructs for gene expression analysis

the specification of which:

- (a) ☐ is attached hereto; or
- (b) ☒ was filed on 9 September, 2003 as Application No. 10/658093 or Express Mail No. _____, as Application No. not yet known _____ and was amended on _____ (if applicable); or
- (c) ☐ was described and claimed in PCT International Application No. _____ filed on _____ and as amended under PCT Article 19 on _____ (if any) and/or under PCT Article 34 on _____ (if any).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56;

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent, design or inventor's certificate or any PCT international application(s) listed below and have also identified below any foreign application(s) for patent, design or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed for the same subject matter having a filing date before that of the application(s) of which priority is claimed:

PRIOR FOREIGN APPLICATION(S)

COUNTRY (OR INDICATE IF PCT)	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 37 U.S.C. § 119
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below, and insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

Prior U.S.A. Application(s)

Application No.: 60/274770 Filing Date: 9 March 2001 Status: _____

Application No.: PCT/AU02/00351 Filing Date: 8 March 2002 Status: _____

Application No.: _____ Filing Date: _____ Status: _____

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole or first inventor: John DALY

X Inventor's signature 

X Day 14th Month October Year 2003

Residence (city and country): 96 Chipping Road, City Beach, Western Australia 6015, Australia

Citizenship: Australia

Post Office Address: "same as above"

Full name of second inventor: _____

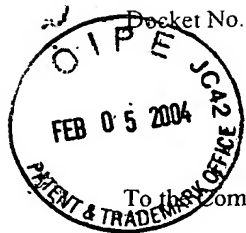
Inventor's signature _____

Day _____ Month _____ Year _____

Residence (city and country): _____

Citizenship: _____

Post Office Address: _____



**ESTABLISHMENT OF RIGHT OF ASSIGNEE TO TAKE ACTION
AND
REVOCATION AND POWER OF ATTORNEY**

To the Commissioner of Patents and Trademarks:

The undersigned is empowered to act on behalf of the assignee indicated below (the "Assignee"). The original assignment of the attached application for Letters Patent for the invention in _____

Constructs for gene expression analysis from the inventors to the Assignee is being submitted herewith for recordation by the Assignment Branch. A true copy of this Assignment is attached hereto. This Assignment represents the entire chain of title of this invention from the Inventor(s) to the Assignee. I have reviewed this Assignment, and to the best of the Assignee's knowledge and belief, the Assignee is the owner of the entire right, title, and interest in the above-referenced application.

I declare that all statements made herein of my own knowledge are true, and that all statements made upon information and belief are believed to be true, and further, that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that willful, false statements may jeopardize the validity of the application, or any patent issuing thereon.

The undersigned hereby revokes any previous powers of attorney in the subject application, and hereby appoints the registrants of Knobbe, Martens, Olson & Bear, LLP, 2040 Main Street, Fourteenth Floor, Irvine, California 92614, Telephone (949) 760-0404, Customer No. 20,995, as its attorneys with full power of substitution and revocation to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected herewith. This appointment is to be to the exclusion of the inventor(s) and his attorney(s) in accordance with the provisions of 37 C.F.R. § 3.71.

Please use Customer No. 20,995 for all communications.

GENE STREAM PTY LTD

× Assignee: Gene Stream Pty Ltd

× By: DR John Daly

× Title: Managing Director

Address: 96 Chipping Road, City Beach, Western
Australia 6015, Australia

× Dated: 16th day of October, 2003

ASSIGNMENT

D N t Record

WHEREAS, I/WE,

(1) John DALY, a(n) Australian citizen,
residing at 96 Chipping Road, City Beach, Western Australia 6015, Australia

(2) _____, a(n) _____ citizen,
residing at _____

(3) _____, a(n) _____ citizen,
residing at _____

(4) _____, a(n) _____ citizen,
residing at _____

hereinafter referred to as Assignor (collectively if more than one inventor is listed above), have invented certain new and useful improvements in Constructs for gene expression analysis

the specification of which:

(a) ☐ was executed on even date herewith;

(b) ☐ was filed on _____ as

☒ Application No. 10/658093 or

☐ Express Mail No., as Application No. not yet known _____

and was amended on _____ (if applicable); or

(c) ☐ was described and claimed in PCT International Application No. _____

filed on _____ and as amended under PCT

Article 19 on _____ (if any) and/or under PCT

Article 34 on _____ (if any).

AND WHEREAS, GENE STREAM PTY LTD, with its
principal place of business at 96 Chipping Road, City Beach, Western Australia 6015, Australia


(hereinafter referred to as Assignee) desires to acquire the entire right, title, and interest in and to the said improvements with respect to the United States of America, its territories and possessions.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor hereby acknowledges that it has sold, assigned, transferred and set over, and by these presents does hereby sell, assign, transfer and set over, unto Assignee, its successors, legal representatives and assigns, the entire right, title, and interest in the United States of America, and its territories and possessions in, to and under said improvements, and any Patent Applications in the United States of America and all divisions, renewals and continuations thereof, and all Patents of the United States of America which may be granted thereon and all reissues and extensions thereof, and all rights of priority under International Conventions; and Assignor hereby authorizes and requests the Commissioner of Patents of the United States of America to issue all Patents for said improvements to Assignee, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND ASSIGNOR HEREBY covenants and agrees that it will communicate to Assignee, its successors, legal representatives and assigns, any facts known to it respecting said improvements, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do everything possible to aid Assignee, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said improvements in the United States of America.

IN TESTIMONY WHEREOF, Assignor intending to be legally bound has hereunto affixed its signature.

(1) This 14th day of October, 2003

X (1) 
Signature of JOHN DALY (print name)

(2) This _____ day of _____, 20_____

(2) _____
Signature of _____ (print name)


(3) This _____ day of _____, 20_____

(3) _____
Signature of _____ (print name)

(4) This _____ day of _____, 20_____

(4) _____
Signature of _____ (print name)

Witnessed by:


Signature of DR AGNES WONG (print name)

COPY
Do Not Record

Applicant or Patentee: _____ Attorney's Dkt. No. DAVI125.001CP1
Serial or Patent No.: _____
Filed or Issued: _____
For: _____

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY
STATUS [37 19(f) and 1.27(c)] - SMALL BUSINESS CONCERN**

I hereby declare that I am

- ☐ the owner of the small business concern identified below:
☒ an official of the small business concern empowered to act on behalf of the concern identified below:
NAME OF CONCERN GENE STREAM PTY LTD
ADDRESS OF CONCERN 96 Chipping Road, City Beach, Western Australia 6015, Australia

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled:

Constructs for gene expression analysis

by inventors John DALY described in

- ☐ the specification filed herewith.
☒ application Serial No. 10/658093, filed _____
☐ patent No. _____, issued _____

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor who could not qualify as an independent inventor under 37 CFR 1.9(c) if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d), or a nonprofit organization under 37 CFR 1.9(e). *NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities (37 CFR 1.27)

Name _____

Address _____

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

Name _____

Address _____

☐ Individual ☐ Small Business Concern ☐ Nonprofit Organization

I acknowledge the duty to file, in this application of patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. [37 CFR 1.28(b)]

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING

TITLE OF PERSON OTHER THAN OWNER

ADDRESS OF PERSON SIGNING

SIGNATURE *Dr John Daly*

Dr John Daly
Managing Director
96 Chipping Rd, City Beach, Western Australia 6015
DATE *14th October, 2003*